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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,265	06/28/2005	Georg Michelson	F-8241	5315
28107	7590	09/08/2006	EXAMINER	
JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168			LARYEA, LAWRENCE N	
		ART UNIT	PAPER NUMBER	
			3735	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/509,265	MICHELSON ET AL.
	Examiner Lawrence N. Laryea	Art Unit 3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 9-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 9-16 is/are rejected.  
 7) Claim(s) \_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 September 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \*    c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>09/27/04 01/27/05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____.

## DETAILED ACTION

### ***Claim Objections***

1. Claims 14 and 15 are objected to because of the following informalities:
2. Re claim 14, at line 3 and 4 “ a scanning area and/or focus of the laser beam and/or intensity of the laser beam” should be changed to --at least one of a scanning area, a focus of the laser beam and intensity of the laser beam --.
3. Re claim 15, at line 1, -- at least one of -- should be inserted following “wherein” and at line 2, “and/or” should read -- and--.

Appropriate correction is required.

### ***Drawings***

4. The drawings are objected to because the unlabeled boxes shown in the drawings should be provided with description text labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top

margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 9-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Re claim 9, the limitation "the camera and the illumination unit" at line 6-7 renders the claim indefinite because the antecedent fails to set forth that both elements are definitely present.

8. Re claim 10, the limitation "said controlling is over a closed control to a control unit of said camera and / or illumination unit" at line 1-3 is unclear and ambiguous.

9. Regarding claim 13, the limitation "the pattern recognition algorithm" lacks antecedent basis.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 9-16 are rejected under 35 U.S.C. 103(b) as being unpatentable over

**Miehle et al (Patent 6247812) in view of Matsugu et al (Patent 5625408)**

12. Re claims 9 -13: **Miehle et al** disclose a method for examining an ocular fundus in which an illuminating device, an image generating device (**See Col.12, line 24-26**), computer and other optical system are used to generate, store, evaluate, compare the fundus images (**data layers**) with image patterns recognition process (**classification**) (**See Col.10, line 58-66; Col.10, line 33-41; Col.5, line 14-20; unit 1080**)

corresponding to eye diseases (**See Col.4, lines 18-21 and 66-67; and Col.5 line 1-8**) but does not expressly disclose a control unit for controlling an illuminating device and an image generating device.

13. **Matsugu et al** disclose a method in which control units (**6<sub>L</sub> and 6<sub>R</sub>**) control the positions of image generating devices (**cameras, 1<sub>L</sub> and 1<sub>R</sub>**). (**See Col.8, line 63-67 and fig. 9**).

14. It would have been obvious to one having ordinary skill in the art at the time of invention to modify a method similar to that of **Miehle et al** to include control units similar to those taught by **Matsugu et al** that control the positions (or new settings) of the image generating devices in order to examine and compare the various images of the eye.

15. Re claims 14 and 15: **Miehle et al** disclose an eye method comprising a laser device that generates laser beam for image capture (**See Col.12, line 18-19**) and an illuminating device that generates relatively low intensity illuminating light onto selected portions of the eye. The optics (**laser devices**) are used to examine selected portions of the eye (**See Col.12, line 28-44**).

16. Re claim 16: **Miehle et al** disclose an eye method comprising a computer (**1000 includes pattern recognition process and matching device**) which automatically matches (compares and analyzes) the identify patterns to correlate a structural defect or condition (one or more diseases) of vision problems. (**See Col.9, line 5-17 and Col.5, line 1-8**).

### ***Conclusion***

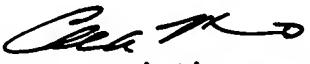
17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **Braeuning et al (Patent 6033076)** disclose a method in which clustering algorithms, linear and non-linear mapping algorithms, and pattern recognition algorithms are used to determine eye diseases. A database of empirical, semi-empirical, or simulated visual field test data is used to build a model of the visual field test data. This model, when applied to previously unseen test results, is capable of automatically interpreting and classifying the test data in terms of the presence and/or severity of abnormal (diseased) regions and states.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence N. Laryea whose telephone number is 571-272-9060. The examiner can normally be reached on 8:30 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LNL

  
Charles A. Marmor, II  
SPE, Art Unit 3735